

IN THE DRAWINGS:

Please amend the drawings as follows:

Replace the drawing sheets showing Figures 1-3 as originally filed with the enclosed drawing sheets showing Figures 1-3 as amended.

Attachment: Replacement Sheet

REMARKS/ARGUMENTS

I. Objections to the Specification

According to the Office Action, the title should be amended to reflect the elected invention, i.e., an apparatus. In response, the title is amended to recite "System for Delivering Elastomeric Media."

According to the Office Action, it is noted of the proper language and format for an abstract of the disclosure. In response, the specification is amended to substitute a new abstract adhering to the proper language and format specified.

According to the Office Action, the disclosure on pages 1 and 3 should not refer to specific claim numbers because the content of the claims can change during the prosecution thereof. In response, the specification is amended to delete reference to specific claim numbers.

According to the Office Action, it is noted of the preferred arrangement of the specification including specified section headings. In response, the specification is amended to include section headings.

II. Objections to the Drawings

According to the Office Action, the drawings are objected to for failing to comply with 37 CFR 1.84(p)(5) because they include the following reference signs not mentioned in the description: 2, 3, 19 and 32. In response, the drawings are amended to delete reference to those numbers:

III. Objections to the Claims

According to the Office Action, the terms "preferably 8°" in claim 9 is understood to be an example of a preferred ratio and is not a positive limitation of the claim. In response, claim 9 is amended to delete reference to "preferably 8°". In addition, claim 10 is amended to delete reference to "preferably three times."

According to the Office Action, the terms "preferably approximately 1:4" in claim 12 is understood to be an example of a preferred ratio and is not a positive limitation of the claim. In response, claim 12 is amended to delete reference to "preferably approximately 1:4".

According to the Office Action, claim 14 is objected to because in line 3, the word "to" should be changed to -two-. In response, claim 14 is amended accordingly.

According to the Office Action, claims 1-14 stand rejected under 35 U.S.C. 112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, claims 1, 6, 8 and 11 recite the word "type" which is indefinite to its metes and bounds. The Examiner suggests deleting the word "type." In addition, the Examiner suggest changing "consisting" and "consists" in the claims to --including-- and --includes--.

In response, claims 1, 6, 8 and 11 are amended to delete the word "type". In addition, claim 1 is amended to change "consisting of" to --comprising--.

IV. Allowable Claims

According to the Office Action, claims 5-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims. The Examiner is sincerely thanked for finding that these claims present allowable subject matter. In response, allowable claims 5-13 are rewritten in independent format as new claims 18-26 (the 35 U.S.C. 112 rejections have been addressed in the previous section).

V. Rejections of the Claims

According to the Office Action, claim 1 stands rejected under 35 U.S.C. §102(b) for allegedly being anticipated by U.S. Patent 5,866,249 (Yarusso et al). Claim 2 stands rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over the Yaruso Patent in view of U.S. Patent 6,168,306 (Degady et al.). Claim 14 stands rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over the Yaruso Patent in view of U.S. Patent 4,913,641 (Zahradnik) and/or U.S. Patent 4,752,135 (Loomans). Claims 1, 3 and 4 stand rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over U.S. Patent No. 5,224,838 (Baumgarten) in view of the Yaruso Patent. Claim 2 stands rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over the Baumgarten Patent in view of the Yaruso Patent, and further in view of the Degady Patent. Claim 14 stands rejected under 35 U.S.C. 103(a) for allegedly being unpatentable over the Baumgarten Patent in view of the Yaruso Patent, and further in view of the Zahradnik and/or Loomans Patent(s).

In response, original claim 2 is rewritten independent form as claim 1 with some clarifying modifications. Accordingly, claim 2 is cancelled. It is respectfully submitted that the cited prior art references, alone or in combination, do not teach the subject matter of amended independent claim 1. Independent claim 1 recites "a control unit to control the screw extruder and/or the gear pump in response to a signal received from the metal detector." This element of the claims is neither described nor suggested by the cited references.

First, the Yarusso Patent fails to mention the problem of processing unit destruction due to debris made of metal in the conveyed media. Thus there is no suggestion to the combine the teachings of the Yarusso Patent with the Degady Patent.

Second, the Degady Patent (the only reference cited for the metal detector) describes a "metal detector" 52 in front of an extruder. However, the purpose of the metal detector 52 is to separate metal impurities from the flow of material as it passes from the feeder 50 into the inlet chute of the side feeder (see col. 5, lines 38-41 and col. 6, lines 13-16). In other words, this "metal detector" is rather a metal eliminator (for which it is made of a magnetic material) than a metal detector. Based on this purpose, there is no description, motivation and/or suggestion for "a control unit to control the screw extruder and/or the gear pump in response to a signal received from the metal detector," as required by the claims. No control unit is necessary in the Degady Patent to control the devices of the processing units.

In the claimed invention, the control unit controls the screw extruder and/or the gear pump in response to the metal detector signal in order to protect the screw extruder and/or gear pump from damage (see Specification, pages 10-11, paragraph 29). The present invention provides a metal detector in front of the gear pump which is operatively connected to the drive of the extruder or to the drive of the gear pump in order to protect the device units downstream of the processing line. For that, the metal detector is connected to the respective drives in order to initiate an emergency stop of the whole processing line. Therewith, no destruction may occur of the downstream processing units by debris made of metal.

Accordingly, because of the distinctly different purposes served by the metal detectors in the Degady Patent and the claimed invention, there is no motivation and/or suggestion to combine the teachings of the Yarusso and Degady Patents to arrive at the claimed invention. Even if the references can be combined, the combination still does not disclose all of the features of Applicants' invention. Although it is alleged on page 8 of the Office Action that by stopping the operation of the system production of contaminated products is prevented, this is not the object of the present invention. Rather, the object of the present invention is protection of the processing units.

The additional limiting element of operatively connecting the metal detector to the drives of the extruder and of the gear pump as well as with a control unit are not obvious modifications as it is alleged in the Office Action. They are aimed at the special solution provided by the invention.

Accordingly, independent claim 1 should now be in condition for allowance. Claims 3-14, dependent on claim 1, should likewise be in condition for allowance.

VI. Rejoinder of Withdrawn Claims

A rejoinder of withdrawn claims 15-17 is respectfully requested if independent claim 1 is determined to be allowed.

Conclusion

In view of the amendments and remarks made above, it is respectfully submitted that all pending claims are in condition for allowance, and such action is respectfully solicited.

Please charge any deficiency in fees or credit any overpayment of fees to Deposit Account No. 05-1323 (Docket 080334.49679CO).

Respectfully submitted,

CROWELL & MORING LLP

Dated: November 12, 2003

By: 

ROBERT L. GRABAREK, JR.

Reg. No. 40,625

Tel.: (949) 263-8400 (Pacific Coast)

Attachments

Intellectual Property Group
P.O. Box 14300
Washington, D.C. 20044-14300

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on:

November 12, 2003

Date:

Laura R. Dixon

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date shown below.

Below.

Laura R. Dixon

Date

Appl. No. 09/819,072
Amdt. Dated 10/14/03
Reply to Office Action of 08/12/03

APPENDIX